TRANSCRIPT OF THE RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1889.

No. 121.

WILLIAM ROEMER, APPELLANT,

vs.

ALBERT O. HEADLEY.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK.

FILED OCTOBER 5, 1886.

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INDEX.

	Original.	Print.
Final decree	1	1
Stipulation to abide decision in Roemer *vs.* Peddie & Co.	3	1
Petition of appeal	5	2
Allowance of appeal	8	3
Citation (copy)	9	3
Clerk's certificate	11	4

JUDD & DETWEILER, PRINTERS, WASHINGTON, JULY 15, 1889.

1 At a stated term of the circuit court of the United States held in and for the southern district of New York, in the city of New York, on the eighth day of June, 1886.

Present: Hon. Hoyt H. Wheeler, district judge.

WILLIAM ROEMER
vs.
ALBERT O. HEADLEY, } In Equity.

This cause having come on to be heard at a February term of this court upon the pleadings, proceedings, and proofs, after hearing counsel for the respective parties, and after due proceedings had, it is, upon consideration, ordered, adjudged, and decreed—

That the bill of complaint herein be, and the same hereby is, dismissed, and that the defendant do recover of the complainant the costs of this suit, to be taxed, and that the defendant have execution therefor.

(Signed) HOYT H. WHEELER.

2 (Endorsed:)

SIR: Please to take notice that on Tuesday, the 8th day of June, at 11 a. m., or as soon thereafter as counsel can be heard, at the U. S. circuit court-room in the post-office building, in the city of New York, we shall present the within decree to the Hon. Hoyt H. Wheeler for settlement.

Dated New York, 5th day of June, 1886.

Yours resp'y,

(S'g'd) BETTS, ATTERBURY & BETTS,
Sol'rs for Def't.

To Messrs. Briesen & Steele, sol'rs for compl't.

(Further endorsed:) U. S. circuit court, southern district of New York. William Roemer *vs.* Albert O. Headley. Proposed decree. Betts, Atterbury & Betts, sol'rs for def't, 120 B'dway, N. Y. (Filemark:) U. S. circuit court. Filed June 8, 1886. Timothy Griffith, clerk.

3 United States Circuit Court, Southern District of New York.

WILLIAM ROEMER,
vs.
ALBERT O. HEADLEY, }

Whereas it is the intention of the complainant to appeal from the decree entered in the suit of William Roemer *vs.* Thomas B. Peddie *et al.*, on the 8th day of June, 1886, and whereas the issues in the above-entitled suit are substantially identical with those in said suit of William Roemer *vs.* Thomas B. Peddie *et al.*, in the U. S. circuit court for the southern district of New York, it is hereby stipulated and agreed between the solicitors for the complainant and defendant

herein that in the event that the complainant shall appeal the said suit of William Roemer *vs.* Thomas B. Peddie *et al.*, and also the above-entitled suit of William Roemer *vs.* Albert O. Headley, on or before the 30th day of October, 1886, then and in that event, a transcript of the record in the above-entitled suit need not be
4 filed in the United States Supreme Court, but said suit may be argued on the record of said suit of William Roemer *vs.* Thomas B. Peddie *et al.*, and abide the result of said suit.

New York, July 8, 1886.

(S'g'd) BRIESEN & STEELE,
Compl't's Sol'rs.

(S'g'd) BETTS, ATTERBURY & BETTS,
Def't's Sol'rs.

(Endorsed:) U. S. circuit court, southern district of New York. William Roemer *vs.* Albert O. Headley. Stipulation. Betts, Atterbury & Betts, solicitors for def'ts, 120 Broadway, New York. (Filemark:) U. S. circuit court. Filed Aug. 12, 1886. Timothy Griffith, clerk.

5 Circuit Court of the United States for the Southern District of New York, Second Circuit.

WILLIAM ROEMER, Complainant and Appellant,
vs.
ALBERT O. HEADLEY, Defendant and Appellee. } In Equity.

To the honorable the Supreme Court of the United States:

The appeal of William Roemer, complainant and appellant above named, respectfully showeth that upon the 16th day of July, 1884, the above-named complainant filed his bill of complaint in the circuit court of the United States for the southern district of New York, in the second circuit, against the above-named defendant and appellee, Albert O. Headley, in a suit in equity, alleging that said defendant had infringed the rights of the complainant therein as secured to him by letters patent granted on the 18th day of Sep-
6 tember, 1877, to him, and numbered 195,233, and praying for an accounting and payment to the complainant by the said defendant of the profits by him realized and of the damages suffered by said William Roemer, complainant and appellant, by reason of said infringement of said letters patent; and also that writs of subpœna and of injunction might be issued against said defendant, his clerks, agents, servants, workmen, &c.

This complainant and appellant further showeth that pursuant to said prayer a *subpœna ad respondendum* issued out of and under the seal of said circuit court, which was duly returned by the marshal for the said district "defendant not found," and that thereupon an *alias subpœna ad respondendum* was issued out of and under the seal of said circuit court and was duly served on said defendant, Albert O. Headley.

This complainant and appellant further showeth that thereafter said defendant, Albert O. Headley, appeared and answered said

bill of complaint by filing his answer, and, among other things, he therein denied the validity of said letters patent, and denied that he infringed the same.

That a general replication was filed thereto, and, issue being thus joined, testimony was taken; and such proceedings were had that on the 4th day of June, 1886, the said circuit court directed that a decree be entered dismissing said bill of complaint, and on the 8th day of June, 1886, a final decree was entered in said circuit
7 court, wherein it was in substance adjudged and decreed that the said bill of complaint be dismissed with costs to the defendant, Albert O. Headley, that were subsequently taxed at $108.27, which said decree is, as the appellant is advised, erroneous and ought to be reversed.

Wherefore this appellant appeals from the whole of said decree of said circuit court to the Supreme Court of the United States, and respectfully prays that the decree of said circuit court, together with the bill of complaint, answer, replication, pleadings, depositions, evidence, and exhibits, and proceedings in said cause, may be sent to the Supreme Court of the United States without delay, and that the said Supreme Court will proceed to hear the said cause anew, and that the said decree of the said circuit court and every part thereof may be reversed with costs, and the complainant may be given the relief prayed for in his bill of complaint, or such other decree made as the Supreme Court shall deem just.

(S'g'd) BRIESEN & STEELE,
8 *Solicitors for Appellants.*

(S'g'd) A. V. BRIESEN, *Of Counsel.*

Appeal allowed August 22, 1886.

(S'g'd) ADDISON BROWN.

(Endorsed:) U. S. circuit c't, S. dist. N. Y. Wm. Roemer *vs.* A. O. Headley. Appeal. Briesen & Steele, appellant's sol'rs, 229 Broadway, New York. (File-mark:) U. S. circuit court. Filed Aug. 24, 1886. Timothy Griffith, clerk.

9 Circuit Court of the United States for the Southern District of New York, Second Circuit.

WILLIAM ROEMER, Complainant and Appellant,
vs.
ALBERT O. HEADLEY, Defendant and Appellee. } In Equity.

By the Honorable Addison Brown, judge, to Albert O. Headley:

Whereas William Roemer has lately appealed to the Supreme Court of the United States from a decree rendered in the circuit court of the United States for the southern district of New York, made in favor of you, the said Albert O. Headley, and has filed the security required by law:

You are therefore hereby cited to appear before the said Supreme Court, at the city of Washington, on the second Monday of October